

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 99-1046

Audrey Montgomery, as Administratrix	*	
of the Estate of Leroy Montgomery and	*	
on behalf of Ivy R. Montgomery, Eddie	*	
Montgomery, Casey Montgomery,	*	
minors; Lerondria Montgomery; Corey	*	
Allen; Yuri Allen,	*	Appeal from the United States
	*	District Court for the
Appellants,	*	Eastern District of Arkansas.
	*	
v.	*	[UNPUBLISHED]
	*	
United States of America,	*	
	*	
Appellee.	*	

Submitted: September 13, 1999
Filed: October 4, 1999

Before BOWMAN, BRIGHT, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Leroy Montgomery was treated at the Veterans Administration Medical Center in Little Rock for idiopathic pulmonary fibrosis, an irreversible lung disease that eventually causes respiratory failure and death. Following his death at the VA hospital, his wife, plaintiff Audrey Montgomery, filed suit in the District Court under the Federal

Tort Claims Act on behalf of Leroy Montgomery's estate and his children. The complaint alleges medical negligence.

The case was tried to the District Court.¹ After weighing the evidence, the court made findings of fact adverse to plaintiffs' case and entered judgment dismissing the complaint with prejudice.

For reversal, plaintiffs argue that the District Court's finding that they failed to meet their burden of proof was clearly erroneous. More particularly, plaintiffs argue that the trial court clearly erred in finding that the decision to discharge Montgomery met the applicable standards of care and in finding that Montgomery had not been scheduled for imminent lung-transplant surgery. Having reviewed the case, we conclude that these findings are supported by the evidence and are not clearly erroneous. Accordingly, the judgment of the District Court is affirmed. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

¹The Honorable James M. Moody, United States District Judge for the Eastern District of Arkansas.